

BEFORE THE CONTRACTORS BOARD

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STATE OF IDAHO

APR 23 2009

In the Matter of the Registration of:

OCCUPATIONAL LICENSES

WW LANDSCAPING & SPRINKLERS, INC.,
Registration No. RCE-11557,Case Nos. CON-2008-92
CON-2008-115

Respondent.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
RECOMMENDED ORDER**

Having reviewed the Amended Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. WW Landscaping & Sprinklers, Inc. (hereinafter "Respondent") is registered with the Idaho State Contractors Board (hereinafter "Board") under Registration No. RCE-11557 to engage in the practice of contracting. Respondent's registration expired on May 2, 2008, and Respondent's registration was canceled as of May 3, 2008. Respondent has not renewed its registration; however, pursuant to Idaho Code § 67-2614, Respondent retains the right to renew its registration for up to five (5) years after cancellation by paying the required fees.

2. On March 5, 2009, a formal administrative Amended Complaint was filed in this matter with the Board. Said Amended Complaint is expressly incorporated herein and made a part hereof.

3. Copies of the Amended Complaint, along with the Notification of Procedural Rights, were sent to Respondent on March 5, 2009, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, to Respondent at the most recent known address for Respondent:

/ / /

WW Landscaping & Sprinklers, Inc.
Jeanette Saldana
3004 W. Strawberry Lane
Hayden, ID 83835

4. The certified mail return receipt indicates that the copy of the Amended Complaint sent by certified mail was received at Respondent's address. In addition, the envelope containing a copy of the Amended Complaint which was sent to Respondent by regular mail was not returned to the sending office.

5. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Amended Complaint within twenty-one (21) days of service of the Amended Complaint and that failure to timely file an Answer to the Amended Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's registration without the necessity of conducting a hearing.

6. On April 10, 2009, a Notice of Proposed Default Order and Default Order, along with another copy of the Amended Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

WW Landscaping & Sprinklers, Inc.
Jeanette Saldana
3004 W. Strawberry Lane
Hayden, ID 83835

7. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

8. Concurrent herewith, a Default Order was entered against Respondent. Therefore, the allegations contained in the Amended Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

9. As detailed in the incorporated Amended Complaint, Respondent did do the following:

a. On August 17, 2007, and August 21, 2007, Respondent was issued Notices of Violation by the State of Idaho Division of Building Services for failing to obtain permits and failing to request inspections on fifteen (15) sprinkler systems in Post Falls, Idaho.

b. On October 18, 2007, Respondent provided a Bid & Acceptance to L.P. to build a 70'x4' retaining wall with steps, install a base with 8' of crushed rock, install perforated pipe on bottom and 8' of crushed rock behind the wall for drainage, and dig down 2' from the wall to the street (12") to install landscape fabric and crushed rock. The total materials and labor for the L.P. project was \$4,560. L.P. paid Respondent a deposit of \$3,000 and later paid Respondent an additional \$300 for caps for the retaining wall. During the course of Respondent's work on the L.P. project, Respondent broke the water line in L.P.'s yard twice and then walked off the job and did not return. On February 5, 2008, L.P. obtained a judgment against Respondent in the amount of \$2,080 in Kootenai County Case No. CV-2007-8197.

CONCLUSIONS OF LAW

1. As a registered contractor in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 52, Idaho Code.

2. The Amended Complaint was sent to Respondent at Respondent's address on file with the Board. Respondent was duly and lawfully given notice of proceedings against its registration pursuant to the provisions of IDAPA 04.11.01.055.

3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Amended Complaint were proved or admitted at a hearing.

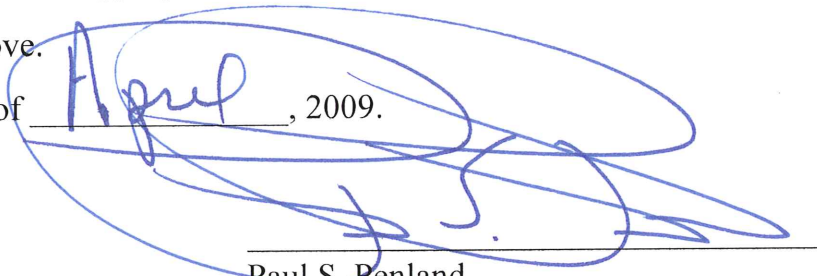
4. Respondent's acts as described in the Amended Complaint constitute

grounds for discipline against Respondent's registration to practice contracting under the laws governing the practice of contracting in the State of Idaho, specifically Idaho Code §§ 54-5215(2)(f) (contractor has engaged in conduct constituting a violation of public laws, ordinances or rules of this State relevant to contracting) and 54-5215(2)(g) (contractor has engaged in conduct constituting dishonest or dishonorable dealings)

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 22ND day of April, 2009.



Paul S. Penland
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5243(3).

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have twenty-one (21) days to respond. The Board may schedule oral argument in the matter before issuing a final order. The

Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Board may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

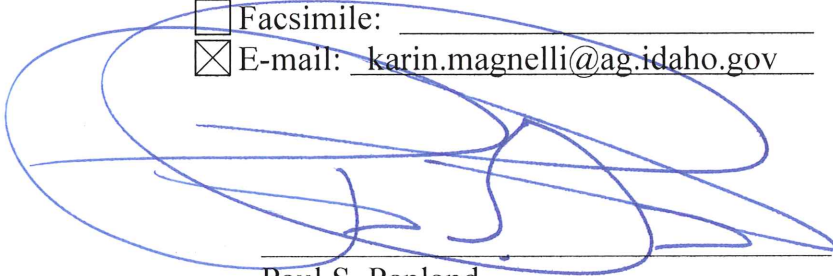
I HEREBY CERTIFY that on this 22ND day of April, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

WW Landscaping & Sprinklers Inc.
Jeanette Saldana
3004 W. Strawberry Lane
Hayden, ID 83835

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ E-mail: karin.magnelli@ag.idaho.gov



Paul S. Penland
Hearing Officer